

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

PHI THETA KAPPA HONOR SOCIETY,)
)
Plaintiff/Counter-Defendant) Civil Action No. 3:22-cv-00208-CWR-RPM
)
v.)
)
HONORSOCIETY.ORG, INC.,)
)
Defendant/Counter-Plaintiff)
/Third-Party-Plaintiff)
)
HONOR SOCIETY FOUNDATION, INC.,)
)
Defendant)
-----)
HONORSOCIETY.ORG, INC.,)
)
Defendant/Counter-Plaintiff)
/Third-Party-Plaintiff)
)
v.)
)
DR. LYNN TINCHER-LADNER,)
)
Third-Party Defendant)

**PHI THETA KAPPA HONOR SOCIETY'S
NOTICE OF SUPPLEMENTAL EXHIBITS¹**

Plaintiff/Counter-Defendant Phi Theta Kappa Honor Society (“PTK”) gives notice of the filing of supplemental evidence in the form of Rachel Smoot’s Supplemental Declaration (**Exhibit A** hereto) pertinent to PTK’s Response in Opposition to Toni Marek’s (“Marek”) Motion to Quash (“Motion”).

¹ Judge Reeves previously considered a similar Notice submitted in connection with PTK and Dr. Tincher-Ladner’s Second Motion for Preliminary Injunction. (Dkts. 200, 230.)

Exhibit A describes new evidence that Marek created contemporaneously with the filing of her Reply.² On January 16, 2025, the day after Marek untimely served her reply on all counsel of record, Marek issued an “open letter” to PTK’s Board of Directors, noting “Five Critical Issues Facing PTK,” including “False Advertising: The ‘Top 10%’ Lie,” and “Misleading Scholarship Claims,” which parroted Honor Society’s false advertising counterclaims in this case and were likely made at the direction or guidance of HonorSociety.org, Inc.’s (“Honor Society”) Executive Director Michael Moradian. Marek also attached documents Honor Society has submitted to the Court as evidence allegedly supporting its claims. Four days later, Marek sent an email to the PTK chapter president at River Valley Community College in New Hampshire, urging the president to sign a “PTK Petition for Change.” The hyperlink in Marek’s email re-directs to a Change.org petition that Marek started on January 9, 2025. Both Marek’s email and the Change.org petition also parrot Honor Society’s false advertising claims related to the “top 10%” and scholarships.

This new evidence is relevant to Marek’s statements in both her Motion and Reply, as it contradicts her argument that she claims no interest in being drawn into this litigation and has no relevant information while on the other hand perpetuating Honor Society’s counterclaim of false advertising to PTK and its affiliates. Her actions are not only relevant to Honor Society’s claims in this action but also to PTK’s claim of intentional interference to the extent that her actions are causing harm to PTK, and it can be shown that Moradian is directing or at least coordinating her public statements.

Exhibit A also describes Marek’s new arguments improperly raised for the first time in her reply brief, including her multiple requests for a protective order, a request to transfer jurisdiction,

² PTK understands that Marek has mailed her Reply to the Court, but the Clerk has not yet entered the Reply on the docket. For the Court’s convenience, PTK is submitting a copy of Marek’s Reply as Exhibit 1 to Exhibit A.

and her request that this Court apply Texas Anti-SLAPP laws in granting her motion. Each of these arguments was available to her at the time she submitted her Motion and thus should be ignored.

Wright v. Excel Paralubes, 807 F.3d 730, 736 (5th Cir. 2015) (“[T]his court will not consider issues raised for the first time in a reply brief.”); *Jones v. Cain*, 600 F.3d 527, 541 (5th Cir. 2010) (“Arguments raised for the first time in a reply brief are generally waived.”); *Bryant v. Bogalusa Bayou Railroad LLC/Watco*, 2022 WL 3354068, at *1 (S.D. Miss. Aug. 12, 2022) (granting non-movant *sua sponte* leave to file a sur-reply based on new arguments movant raised in its reply brief).

Dated: January 23, 2025.

Respectfully submitted,

/s/ Jonathan G. Polak

Jonathan G. Polak (*Pro Hac Vice*)

W. Michael Etienne (*Pro Hac Vice*)

TAFT STETTINIUS & HOLLISTER LLP

One Indiana Square, Suite 3500

Indianapolis, IN 46204-2023

(317) 713-3500 – phone

(317) 713-3699 – fax

jpolak@taftlaw.com

metienne@taftlaw@taftlaw.com

Rachel Smoot (*Pro Hac Vice*)

TAFT STETTINIUS & HOLLISTER LLP

41 S. High Street, Suite 1800

Columbus, OH 43215

(614) 221-2838 – phone

(614) 221-2007 – fax

rsmoot@taftlaw.com

Daniel R. Warncke (*Pro Hac Vice*)

TAFT STETTINIUS & HOLLISTER LLP

425 Walnut Street, Suite 1800

Cincinnati, OH 45202

(513) 357-9397 – phone

dwarncke@taftlaw.com

Philip R. Bautista (*Pro Hac Vice*)

TAFT STETTINIUS & HOLLISTER LLP

200 Public Square, Suite 3500
Cleveland, OH 44114-2302
(216) 706-3686 – phone
pbautista@taftlaw.com

/s/ Charles E. Cowan
Michael B. Wallace, MSB # 6904
Charles E. Cowan, MSB #104478
Beau M. Bettiga, MS #105905
Jack F. Hall, MSB #106482
WISE CARTER CHILD & CARAWAY, P.A.
Post Office Box 651
Jackson, Mississippi 39205
Phone 601-968-5500

*Counsel for Phi Theta Kappa Honor Society and
DR. Lynn Tincher-Ladner*

CERTIFICATE OF SERVICE

I, Jonathan G. Polak, do hereby certify that I have this day filed the foregoing with the Clerk of the Court via the ECF filing system, which sent notification of such filing to all counsel of record.

Dated: January 23, 2025

/s/ Jonathan G. Polak
Jonathan G. Polak